

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

VALERIE H. COOK,

Plaintiff,

DECISION AND ORDER

11-CV-6446L

v.

ESL FEDERAL CREDIT UNION,

Defendant.

On December 19, 2012, Magistrate Judge Marian W. Payson issued a Report and Recommendation (“R&R”) recommending that the Court dismiss the complaint in this action for failure to prosecute, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. (Dkt. #25). The basis for that recommendation was plaintiff’s failure to comply with court orders, and the lack of any indication from plaintiff that she intends to prosecute this action. *See id.* at 3.

As noted in the R&R itself, any objections to the R&R were due within fourteen days after the relevant party’s receipt of the R&R. Given the presumption that a mailed document is received three days after its filing, *see Tiberio v. Allergy Asthma Immunology of Rochester*, 664 F.3d 35, 37 (2d Cir. 2011), objections to Magistrate Judge Payson’s R&R were due no later than January 7, 2013.

Consistent with her prior pattern of inactivity in this case, plaintiff has filed no objections to the R&R. Based upon my own review of the R&R, I concur with Magistrate Judge Payson’s findings and conclusions, I adopt the R&R in its entirety, and I direct that the complaint be dismissed.

CONCLUSION

I adopt and accept the Report and Recommendation (Dkt. #25) of United States Magistrate Judge Marian W. Payson in its entirety. The complaint is dismissed for failure to prosecute, pursuant to Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
January 14, 2013.